

The Good, Bad and Ugly Healthcare Issues at the 88th Texas Legislature



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Texas Hospital Association

- Founded in 1930, the Texas Hospital Association is the leadership organization and principal advocate for the state's hospitals and health care systems.
- Based in Austin, THA enhances its members' abilities to improve accessibility, quality and cost-effectiveness of health care for all Texans.
- One of the largest hospital associations in the country, THA represents more than 85 percent of the state's acute-care hospitals and health care systems, which employ more than 400,000 health care professionals statewide.



Hospitals are
integral to Texas
communities.



Texas Our Texas



Healthcare and Hospitals in Texas

- 630 hospitals in Texas
- 288 designated trauma hospitals
- More than 400,000 full and part time employees
- \$144 billion annually economic activity generated by Texas hospital jobs
- 1 in 9 U.S. jobs supported directly or indirectly by hospitals
- \$7.1 Billion annually in uncompensated care
 - Before DSH and UC payments



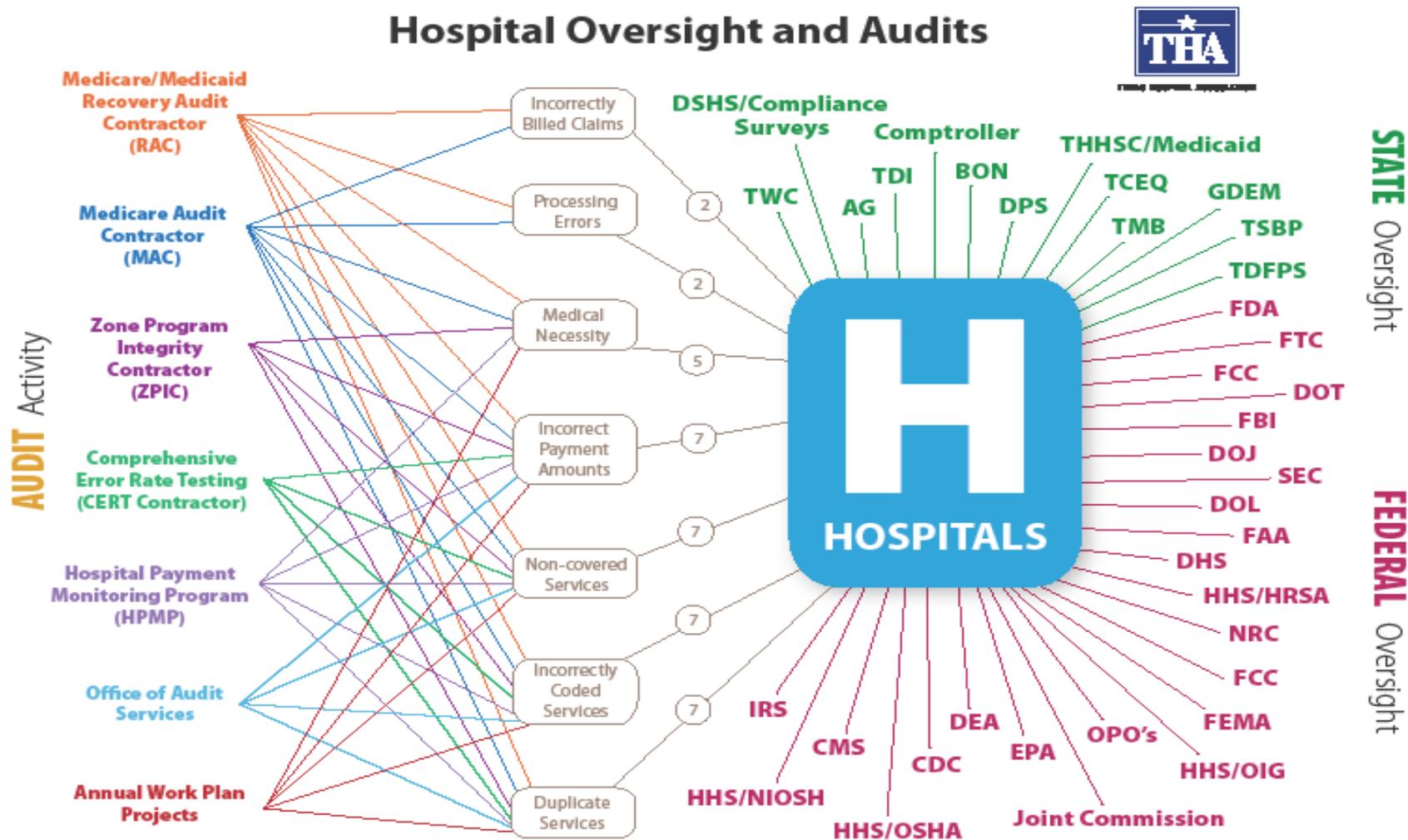
Why Does This Matter to Hospitals?

Why does advocacy matter to hospital executives and trustees? How do elected officials affect my hospital?

- Budget Writers
 - What percentage of your budget is from government payers?
- Policy Makers
 - Regulation of Healthcare Delivery
- Engage with Elected Officials
 - Elections Matter, Rhetoric Matters



Hospital Government Oversight



What Does THA Do In Advocacy?

THA Mission: Serving Texas hospitals as the trusted source and unified voice to influence excellence in health care for all Texans.

- About 600 member hospitals in Texas
- Policy Making Structure at THA
 - From Workgroups to THA Board
- Advocacy Team Components
 - Lobby, Policy, Legal, Communications, HOSPAC, CEO
- Lobby Issues = Affect Legislation affecting hospitals
- Regulatory Issues = Affect Regulation affecting hospitals



Bicameral Texas Legislature

Texas House:

150 Members with Two Year Terms

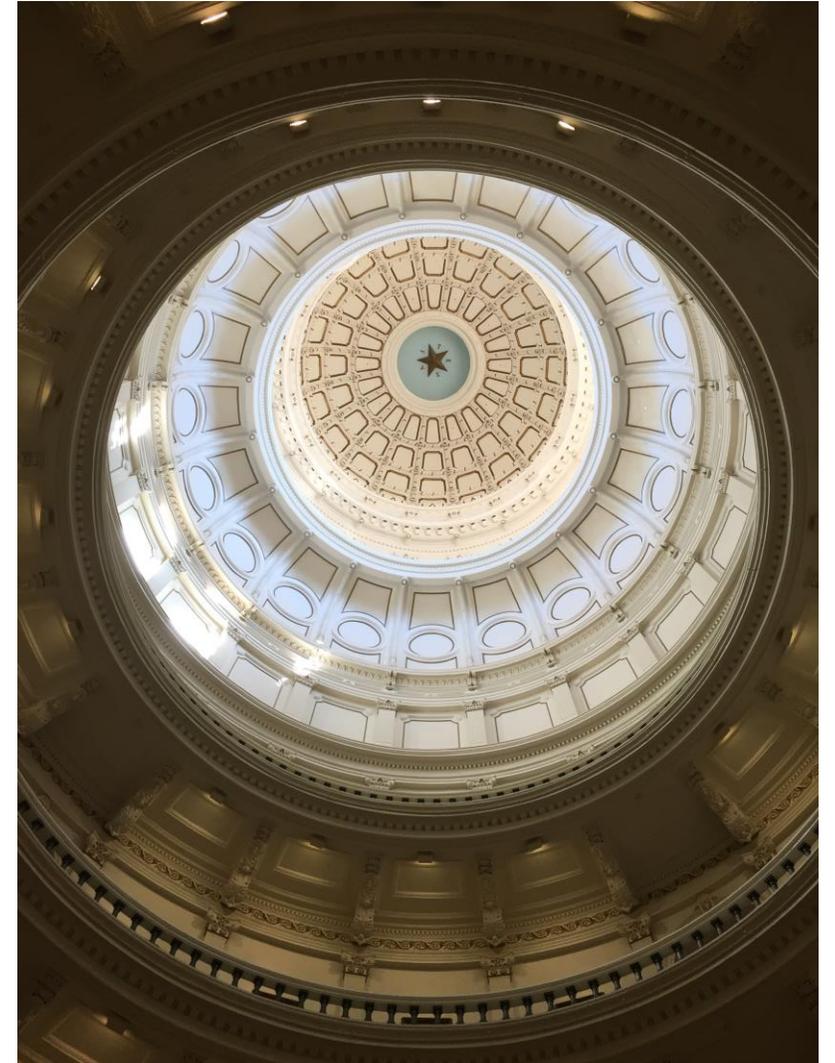
Texas Senate:

31 Members with Four Year Terms

Governor, Lt. Governor, Comptroller:

Four Year Term

- Primary Election March of Even Years
 - Primary Run-Off in May
- General Election November of Even Years



Texas Legislature Overview

Texas Constitution determines:

- Biennial Regular Session for 140 Days
 - Special Sessions called only by Governor
- Second Tuesday of January of Odd Years
 - Bill filing began Nov. 14
 - 88th Texas Legislature began Jan. 10
 - Speaker's Election, Rules Election
 - Committee Appointments
 - Bill Filing through March 10
 - Sine Die is May 29!
 - Special Session(s)?
- **Record number 8,520 bills filed this session**
 - **THA tracked 1,642 bills on health care / hospital budget and policy**



140 Days Every Other Year

The average legislative office handles the following during the 140-day session:

- 7,500 + bills
- 6,000 telephone calls
- 5,000 drop-in visitors
- 8,000 letters
- 50,000 emails
- 600 event invitations



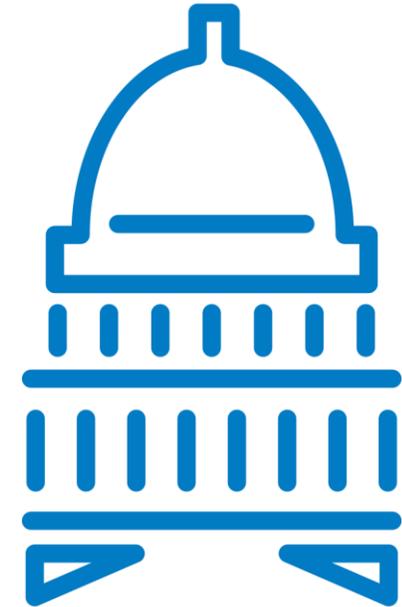
Legislative Process in Theory



Elections Impact Policy

November 8 General Election:

- Following redistricting, **all 181 seats** in the Texas Legislature (150 House, 31 Senate) were up.
- Texas now has 40 Members of Congress (**38 + 2**).
 - Texas only state to gain two MOC post-census.
- Texas remains a very **red** state.
- Legislative Majorities stay GOP in House and Senate.
- Abbott, Patrick, Phelan return.
- Looking ahead to 2024?

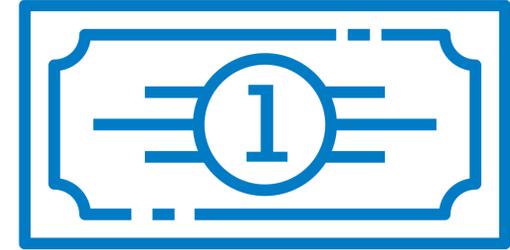


State Legislation Impacting Hospitals

- Hospital Licensure Requirements, Surveys, Inspections and Fees
- Physician, Nurse, Allied Health Provider Education, Training, Licensure
- COVID Visitations, Standards of Care, Vaccine Mandates
- Medical and Nursing Workforce, Education, Staffing
- Telemedicine Standards, Requirements
- Trauma and EMS Standards, Licensure, Requirements
- NICU Regulation, Certification
- Public Health – Vaccines, Car Seats, Texting While Driving, Cigarettes
- Insurance Network Adequacy
- Mental Health Care Delivery, Coverage, Workforce
- Life Cycle: Pregnant Women, Fetal Tissue, Placentas, End of Life, DNR Orders
- Compliance with Public Information Act
- Guns in Hospitals
- Licensed Freestanding Emergency Centers regulation and billing
- Medical Waste Disposal



The Only Must Pass Bill

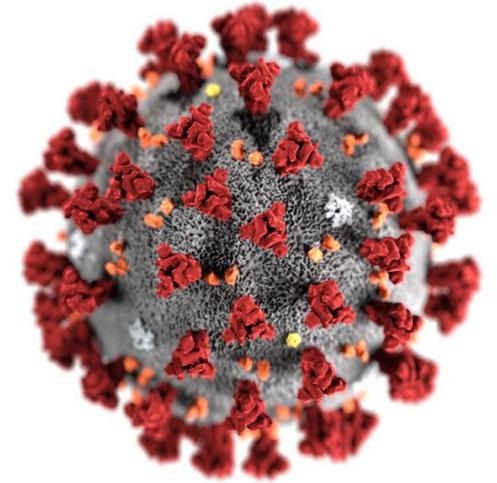


- Must-pass legislation – biennial budget
- Texas has a record surplus of \$32.7 billion*, driven by inflation in sales tax revenues and oil and gas production taxes.
- Texas spending limits:
 - Balanced budget requirement as determined by Comptroller Hegar, and
 - Constitutional Spending Limits set by Legislative Budget Board (12.3% over current)
 - To “bust the cap” takes record vote of both houses
- Rainy Day Fund approaching \$27 billion
- Magic Questions:
 - How to spend record amounts of general revenue (HB 1)?
 - Will legislators vote to suspend limitations for property tax cut or infrastructure?
 - Remaining ARPA / Supplemental Needs Existing 2021-2022 Budget (SB 30)?



Shaping 2023: The Impact of COVID-19

- Hospitals were tested and strained like never before throughout the pandemic – testing, vaccinating and caring for millions while other establishments shuttered their doors.
 - Texas hospitals administered more than 7.5M vaccine doses (Oct. 2022)
 - Comptroller credits vaccine administration for driving state’s economic recovery (May 2021)
- Bed and ventilator capacity, stress and burnout, and workforce attrition hit hospitals hard, with many nurses and other health care professionals retiring or leaving the profession.
- Federal COVID relief funds were a major life raft for hospitals during the initial waves of COVID, keeping facilities afloat.
- Now, financial stability and an industrywide workforce shortage loom as profound problems for facilities everywhere.
- Meanwhile, allegations that hospitals were “enriched” by PRF and COVID reimbursement.



THA COVID and Finance Reports

- Texas [Kaufman Hall Report](#):
 - One in Nine Texas Hospital at Risk of Closure.
 - 26% of rural hospitals are at risk.
 - Labor Expenses are up 21% from pre-pandemic.
 - Labor expenses are \$18B higher than 2019.
 - Medical supplies are up 8.5%.
 - Hospital volumes remain below pre-pandemic.
 - But patient days and length of stay are up.
 - Hospital revenues have grown since the pandemic, but the rate of growth has significantly lagged expense growth.
 - Almost half of Texas hospitals (47%) finished 2022 with a negative margin.
 - THA's [COVID Report](#) tells the story of hospitals throughout the pandemic and the challenges still existing.



#1 Legislative Issue for Texas Hospitals: Workforce

Pipeline: Increase funding to increase the health care workforce = critical Texas infrastructure.

- 64% of hospital have reduced services due to staff shortages
- 15,709 qualified applicants turned away from the state's nursing schools in 2021, per Texas Center for Nursing Workforce Studies
- Funding in HB 1:
 - Professional Nursing Shortage Reduction Program for Texas nursing school faculty supplements and clinicals = \$46.8M biennium (+\$27.9M).
 - Nursing Scholarships = new \$25M biennium contingent on SB 25.
 - Nurse Faculty Loan Repayment Program = \$7M biennium (+\$4M).
 - Behavioral Health Loan Repayment Program = \$28M (+\$26M).
 - Maintain GME funds for physicians at 1.1 to 1 ratio = \$233M (+\$34M)
 - Physician Education Loan Repayment Program = \$35.5M (+\$6M)
 - Family Practice Residency Program = \$16.5M (+\$7M)
 - Rural Residency Physician Program created with new \$3M

Texas Hospital Association | A Workforce in Peril: Shortages Threaten Patient Care

Two years of COVID-19 pandemic care have strained hospital resources and capacity like never before. These extraordinary challenges have acutely impacted the people who provide care inside the walls of hospitals. Burnout and fatigue have plagued the frontlines, and many health care workers have left the field altogether. While health care workforce shortages existed long before COVID-19, staffing costs and other pandemic-related challenges have led to an unsustainable situation that threatens hospitals' ability to care for patients.

Texas hospitals report nursing vacancies in non-COVID-19 units are about double pre-pandemic levels.

Fewer Staff. Less Care
Hospitals are able to provide high-quality patient care because of their skilled and sufficient health care workforce. The existing significant shortage of hospital care providers has forced hospitals to compete for contract labor. These skyrocketing labor costs have profoundly impacted hospital finances, pushing many providers toward a financial cliff. As the challenges to find, procure and maintain staff continue, the impacts on hospitals' ability to provide care will continue.

Pervasive workforce shortages on Texas' health care system could:

- Reduce essential service lines, like labor and delivery, surgery, oncology and psychiatric units;
- Force rural and smaller hospitals unable to afford increasing labor costs to close; and
- Limit the guaranteed next-level specialized care for patients.

26,000
Over the course of the pandemic, THA advocated for much-needed state staffing to help hospitals combat COVID-19 surges. The state of Texas provided more than 26,000 staffed positions to health care facilities over the duration of the pandemic.



Workforce Retention and Safety

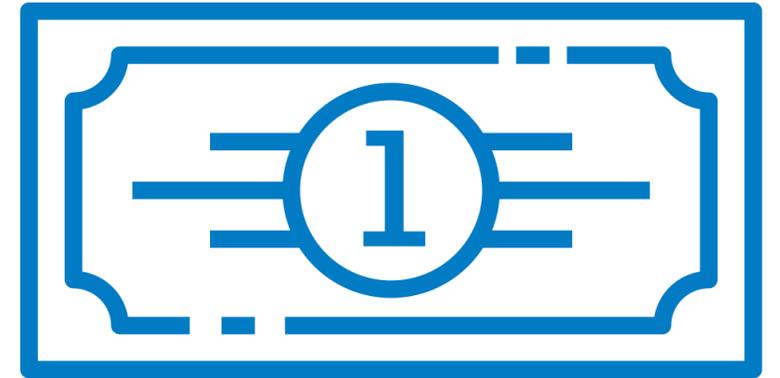
Continued health care workplace safety, retention and violence reduction strategies needed to maintain a strong workforce.

- SB 240 requiring all providers to develop workplace safety plans, definitions and reporting mechanism. *First bill to pass this year, signed by the Governor on May 15, effective on Sept. 1!*
- SB 840 enhances to a third-degree felony an assault on hospital personnel while the person is on hospital property (beyond the ED). *Sent to the Governor!*



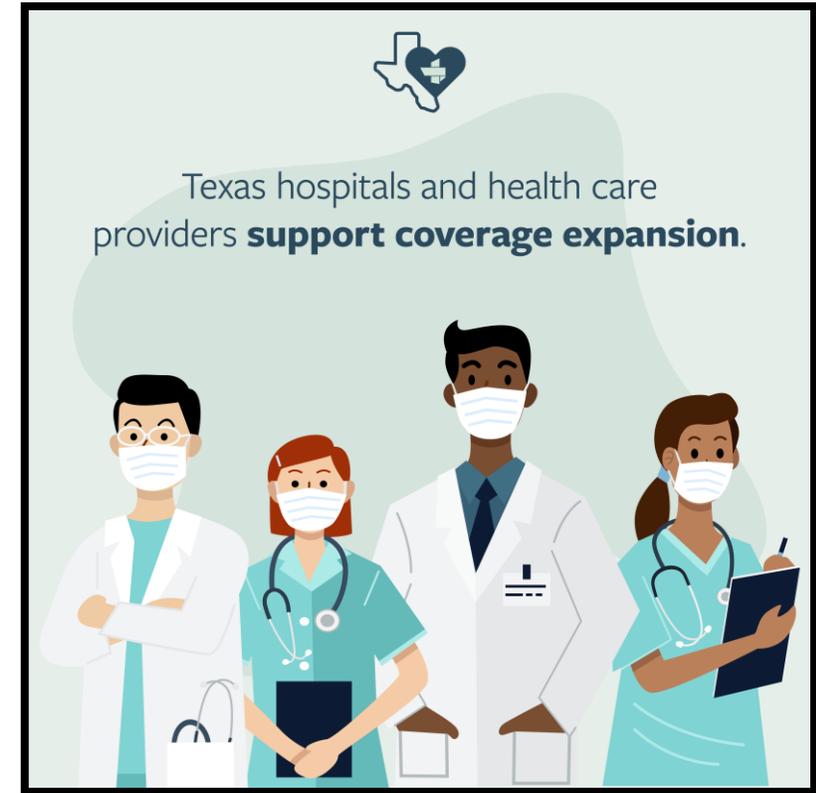
Hospital Funding in the State Budget

- Maintained state funding of Medicaid:
 - All funding (\$4B increase to \$38.5B AF/year)
 - Trauma, safety net and rural hospitals add-ons
- Rural Hospital Funding to Prevent Closures:
 - Cost based adjustment increase of \$72.8M biennium
 - L&D add-on increased to \$1500 from \$500 (\$47M AF)
 - \$51M GR for financial stabilization grants
 - \$7.4M GR for rural telepsychiatry consultations
- Trauma Fund Maintained
 - + \$3.3M AF more for RACS
 - Includes rider to study trauma care fund
- Behavioral Health System
 - 193 additional state-purchased inpatient psych beds
 - 150 additional competency restoration beds
 - \$67M/year for state hospital staff salary increases
 - \$2.3B GR for inpatient capacity, contingent on SB 26?



Increase Health Care Coverage

- Efforts to increase the number of Texans with comprehensive health insurance: *No Medicaid Expansion legislation moved.*
- Extending postpartum Medicaid coverage for new mothers to 12 months: *HB 12 pending final passage, will require CMS approval.*
- Increasing the inpatient psychiatric adult Medicaid stay limit beyond 15 days (with an “Institutions of Mental Disease” IMD CMS waiver): *Not in budget.*
- Ensure a strong process to end the PHE and ensure eligible Texans that remain eligible for Medicaid or other coverage remain enrolled: *Eligibility redeterminations began on Apr. 1.*



Behavioral Health Access and Coverage

THA supports improving the continuum of care in all behavioral health care settings.

- Increasing the reimbursement rate and number of state contracted beds in communities.
- Increase funding for Mental Health Loan Repayment Program.
- Medicaid coverage for Partial Hospitalization Services and Intensive Outpatient Therapy to prevent hospitalization (*bill still moving*).
- Obtaining an electronic means of requesting an Emergency Detention Order (*bill still moving*).



 Texas Hospital Association | Texas Hospitals Strongly Support Behavioral Health Priorities

 Demand for behavioral health care surged during the pandemic. And the after-effects continue to unfold with increases in anxiety, depression and suicidal ideation among children and adults. While Texas has recognized the critical importance of a strong behavioral health infrastructure, behavioral health services unfortunately remain difficult to access for many Texans.

Like never before, behavioral health concerns have been pushed front and center – and the time is now to make additional investments in behavioral health policies, hospitals, programs and workforce.

The consequences of untreated mental health conditions are significant, ranging from drug overdoses, increases in violence, lost jobs, and poor physical health. According to the National Alliance on Mental Illness, **3,900 Texans died from suicide** and 750,000 adults had suicidal thoughts in 2020. Mental health conditions affect **one in five Texans** every year. And over **two-thirds of people with a behavioral health condition get no treatment** for that condition.

The Texas Hospital Association is committed to ensuring behavioral health is at the forefront of the agenda in local communities, statewide and in Washington, D.C. THA will continue to lay the groundwork for sound behavioral health care policy in the Texas Legislature.

Here are THA's top behavioral health priorities for the 88th Texas legislative session:

- Secure a federal waiver from the Institutions for Mental Diseases (IMD) exclusion rule, which would allow Texans aged 21-64 to be covered for Medicaid inpatient behavioral health stays longer than 15 days.
- Increase in general reimbursements for adults and pediatric inpatient psychiatric beds under Medicaid.
- Increase behavioral health hospital capacity by increasing contract beds and rates for state-contracted beds, both adult and pediatric.
- Mandate coverage in Medicaid for intensive outpatient therapy and partial hospitalization.
- Improve and increase hospital workforce by increasing funding to the Mental Health Loan Repayment Program.
- Streamline the detention warrant acquisition process through electronic warrant applications.
- Create a grant program for behavioral health providers who lack access to electronic medical records and interoperability technology.

Visit www.tha.org/behavioralhealth for additional information | 1108 Lavaca, Austin TX, 78701-2180



Patient Access to Care

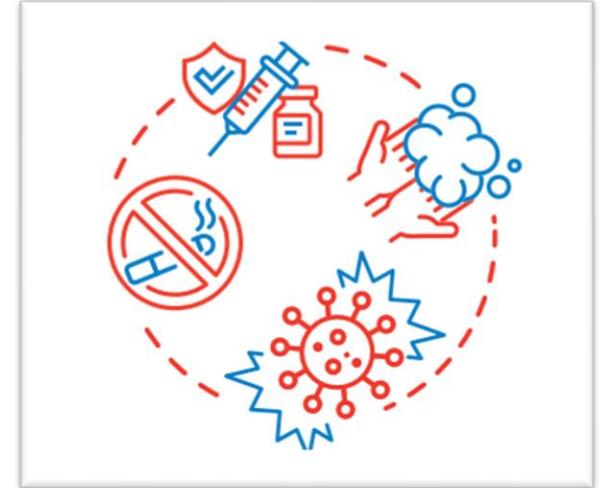
- Payer policies that reduce red tape and improve patient access to care, including limits on prior authorizations and care location policies.
 - Support scrutiny of Medicare Advantage processes at the federal level.
 - Improve Network Adequacy Requirements at TDI (*HB 3359 still moving*)
- Removing overly burdensome utilization review policies, robust insurance networks and strengthening access to and payment of emergency room care.
 - Support “prudent layperson standard” to be used for ED reimbursement (*bill failed*).
 - Prohibit “white bagging” policies that require drugs to be dispensed at off-site pharmacies (*bill passed only for physicians' offices, specifically excluding hospitals and hospital outpatient infusion centers*).
- Patient access to price transparency and quality data for all health care providers.
 - Include all providers in state transparency requirements (*bill failed*).
- Ensure continuation of CMS Hospital-At-Home waiver program.
 - Bill requires HHSC to adopt procedure for state compliance (*HB 1890 passed*).



Public Health and Vaccines

In a time when vaccines have become politicized, hospitals must be able to protect their patients, staff and communities.

- American adults who received a COVID-19 vaccine were 14 times less likely to die than those with no vaccine. (CDC Nov. 2021)
- Hospitals are currently required by CMS to have COVID-vaccinated or approved-exempted staff.
 - Legislation prohibits governmental entities from requiring masks or COVID-19 vaccines (hospitals exempted for masks, and per existing CMS requirement). *SB 29 has passed both houses.*
 - Legislation prohibits compelling or coercing an employee to receive a COVID-19 vaccine, with exemption for current CMS rule. *SB 177 is moving through the process.*
 - Legislation prohibits a Medicaid or CHIP provider from restricting care based solely on immunization status, has exemption for oncology and organ transplant. *HB 44 moving through process.*
 - Many other bills filed to restrict or limit masking and vaccines, including public and higher education vaccine requirements.



Legislative Challenges

House Select Committee on Health Care, charged with looking at “excessive health care costs”:

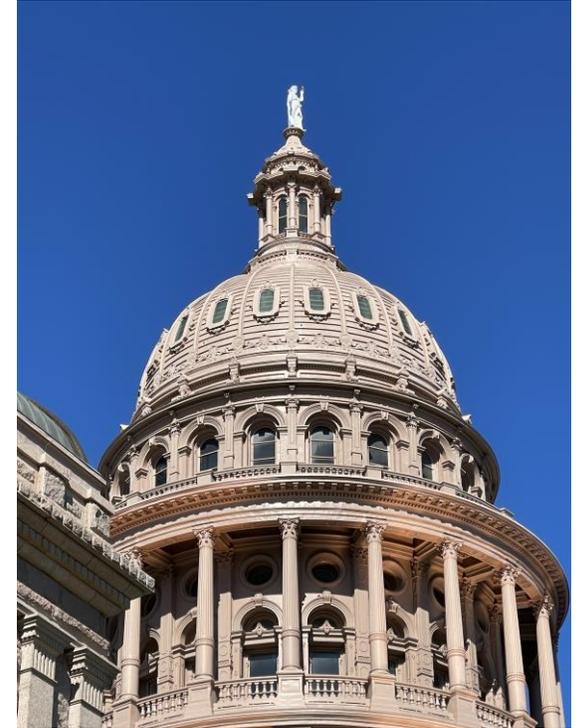
- Legislation banning all hospital outpayment payments, defined as “facility fees”, died. Health insurance backed bill. (HB 1692 and SB 1275)
- Legislation forcing hospitals to accept a government-set rate for services provided outside of insurance, despite charity care requirements, died. The rate would be set at the lowest commercial contracted rate. (HB 633)
- Legislation requiring a 10-person legislative committee to establish government-set hospital rates for ERS, TRS, UT and A&M plans died. This would have superseded existing private market negotiations with health plans for one of 11 Texans with private insurance. (HB 5186)
- Legislation allowing health insurance companies to sell deregulated insurance-like products free from consumer protections codified in law died. The bill would have created more uncompensated care. (HB 1001)
- Legislation to create a health insurance think tank to review all health insurance requirements and would put the health insurance companies in the driver’s seat of determining regulations and coverage died. (HB 2403 / SB 1481)
- Legislation passed requiring hospitals and ASCs to provide a newly defined itemized bill when requesting payment from a patient – with plain language, billing codes and amount alleged due. This is in addition to existing law allowing patient to request an itemized statement. Bill authors stated intent is to provide itemized before collections begin. (SB 490)



Effectively Addressing Cost Drivers

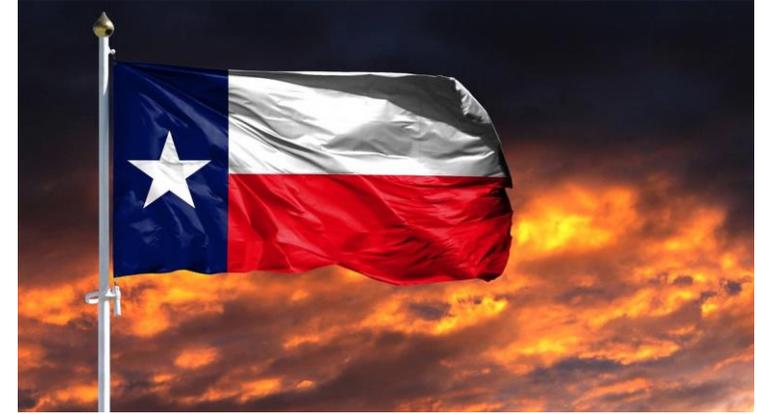
- Increase health care workforce across the state, especially nurses, to ensure providers can provide life-saving care, protect patient access to care, staff record numbers of vacant beds, and balance the increasing and continued workforce cost challenges;
- Ensure nurses and all health care providers are safe at work by developing strong plans to prevent workplace violence, which endangers patients and staff and increases staff turnover;
- Improve access to care and increase health care coverage, including post-partum care for mothers and access for inpatient behavioral health patients;
- Increase resources for behavioral health care with increased bed capacity statewide, more behavioral health care workforce, and increased access leading to less hospitalizations; and,
- Balance individual rights and the needs for safety within hospitals, ensuring a strengthened public health system.

Texas hospitals provided care on the frontlines of a pandemic while insurance companies collected record profits and made legislative roadmaps for more money



What Comes Next?

- SINE DIE, May 29!
- Special Session(s) solely Governor-determined
- Outstanding Issues
 - Biennial Budget (SFY start 9/1)
 - Public Education Vouchers
 - State Electricity Grid
 - Social Issues
 - COVID-19
- Also now: U.S. Congress in Washington, D.C.
- Implementation of Bills that Passed
- March and November 2024 elections....



How to Engage with THA

- THA [White Paper and Reports](#)

- THA Priorities
- Medicaid Financing 101
- Workforce, Behavioral Health
- The Facts
- COVID Report

- Stay Connected With THA:

- THA Website www.tha.org
- Facebook @TexasHospitals
- Instagram @TexasHospitals
- Twitter @TexasHospitals
- LinkedIn

The thumbnail shows the cover of the report "Texas Hospitals' 2023 State Policy Priorities". It features the Texas Hospital Association logo and the title. The cover lists three main priorities: 1. STATE BUDGET, 2. WORKFORCE, and 3. FINANCIAL STABILITY. Each priority is accompanied by a small icon: a document with a dollar sign for the budget, a group of people for workforce, and a scale for financial stability.

The thumbnail shows the cover of the report "The Facts: Texas Hospitals Work to Stabilize Amid Harmful Mistruths". It features the Texas Hospital Association logo and the title. The cover includes a graphic with the words "FACTS" and "FICTION" and a bar chart. The text on the cover discusses the challenges hospitals face during the pandemic and the need for transparency.





Thank you. Questions?

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